

Abstract

This thesis is concerned with „**concentration of proceedings**“ and its limits. Concentration of proceedings is a means of ensuring expeditious, economical and effective civil process. In Czech law, it applies in particular in the contentious proceedings. Concentration of proceedings is closely related to the principle of concentration which one of the general principles of civil law procedure, and is opposed to the principle of unitary process. The concentration of proceedings may take place at several points in time in the process in connection with the end of the preparatory meeting, of the first hearing and the announcement of the first instance judicial ruling. The concentration of proceedings is necessarily interconnected with the „principle of partial appeal“ which applies in appeal proceedings against first instance judicial rulings under the Act. No. 99/1963 Coll., civil procedure act, as amended. The application of the concentration of proceedings also relates to the concept of “qualified call for response”.

In fact, it is not uncommon that the functioning of concentration of proceedings is misunderstood, including by the courts themselves who often misapply the relevant provisions of the civil procedure act with the view of avoiding concentration of proceedings. In my practical experience, I have encountered such situation. Thus this thesis focuses not only on the general aspects of the relevant concepts and of the implications of the concentration of proceedings, but also on the problem causing aspects of these concepts and their ramifications. It aims to provide answers to certain questions posed by the individual relevant provisions and their implementation.

The thesis is systematically divided into nine chapters some of which are subdivided. The introductory chapter of this thesis discusses the principle of concentration of proceedings, its definition and rationale. It also covers a brief historical overview including the origins of the current law of concentration of proceedings. In the following chapters I turn to the two types of concentration of proceedings, namely statutory concentration and judicial concentration of proceedings and how they are reflected in the current civil procedure law, and furthermore to the closely related duty to allege and duty of proof and burden of allegation and burden of proof. Chapter IV deals with the aspects of concentration of proceedings at the stage of preparation for trial which involves among others the qualified call for response and a preparatory meeting. The chapter focuses on the conditions for issuing of a

qualified call and the nature of the decision that can be issued in this situation. Chapter V and VI. address the concentration of proceedings that takes place in connection with the first hearing (considering in particular the effects of amendment of the plaintiff's claims) as well as the concentration of proceedings at the point of announcement of the first instance judicial ruling in light of the principle of partial appeal. These chapters also analyse the exceptions and exemptions from concentration of proceedings and the limitation of appeal grounds under the relevant statutory provisions. Chapter VII. concerns the issues relating to the court's duty to instruction/warning as set forth in the statute and decision making practice of higher courts.

One of the closing chapters aims to outline the practicality of concentration of proceedings in arbitration under Act no. 216/1994 Coll, on arbitration and enforcement of arbitration awards, in light of the higher courts and arbitration panels decision making practice. The final chapter touches on concentration of proceedings in French civil process law, all the time from the viewpoint of the Czech law.

The thesis draws mainly from the relevant books on civil process and the civil process act in general, as well as books and articles on the particular issues this thesis deals with, judicial decisions and explanatory memoranda accompanying the relevant bills.